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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,387	06/27/2001	Yoshihiro Takashimizu	010803	2563

38834 7590 09/07/2005

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EXAMINER

CHANKONG, DOHM

ART UNIT	PAPER NUMBER
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2152

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/891,387

Applicant(s)

TAKASHIMIZU ET AL.

Examiner

Dohm Chankong

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-5 and 7-19 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

- 1> Restriction to one of the following inventions is required under 35 U.S.C. 121:
- I. Claims 1-5, 7-9, 12-19, drawn to a relay apparatus comprising of a first and second basic units, each unit having the same network address, and a common unit that enables the first basic unit as the primary system and switching to the second basic unit when the first unit fails, classified in class 709, subclass 220.
 - II. Claims 10 and 11, drawn to a relay apparatus connected to a first and second host system and comprising of a single basic unit and a common unit, the common unit switching between the first and second host systems, classified in class 709, subclass 223.

- 2> The inventions are distinct from each other because of the following reasons:

Inventions I and II are directed towards different relay apparatuses. Invention I discloses a relay apparatus with two basic units, with the two basic units sharing a common IP address. The common unit of the relay apparatus is enabled to make one of the units a primary unit and can switch relay operations to the second unit when the primary unit fails. Since the two units share a common IP address, the switch between units can be a transparent process.

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Invention II seems directed towards a relay apparatus that is enabled to switch between a present host system and a standby host system that are connected externally to the relay apparatus. The relay apparatus contains only one basic unit that performs relay operations and the common unit within the relay apparatus switches between the present and standby systems, not between units that are located within the relay apparatus.

Therefore, Inventions I and II are clearly distinct and different from each other and are directed towards a different functional relay apparatuses.

3> Because the inventions are different based on the preceding remarks and the search for Invention I is not required for Invention II, restriction for examination purposes as indicated is proper.

4> Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement is to be traversed [37 CFR 1.143].

Conclusion

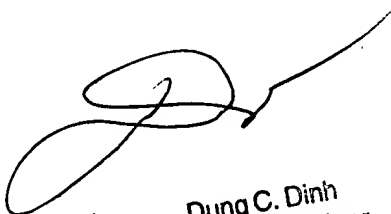
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is (571)272-3942. The examiner can normally be reached on 8:30AM - 5:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571)272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DC



Dung C. Dinh
Primary Examiner